

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

WAYNE BERRY, a Hawaii citizen;)	CIVIL NO. CV03-00385 SOM-LEK
)	(Copyright)
Plaintiff,)	
)	DECLARATION OF LEX R. SMITH
vs.)	
)	
HAWAIIAN EXPRESS SERVICE,)	
INC., et al.,)	
)	
Defendants.)	
)	
)	

DECLARATION OF LEX R. SMITH

Lex R. Smith, under penalty of perjury state as follows:

1. I am an attorney licensed to practice law before all of the State and Federal Courts in the State of Hawai'i and am one of the attorneys representing the Post-Confirmation Trust for the Fleming Companies, Inc. (hereinafter "PCT") in this case.

2. I submit this Declaration in Support of Defendant's Application to Admit Erin N. Brady *Pro Hac Vice*.

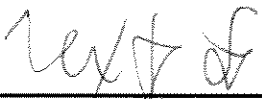
3. I am informed that Erin N. Brady serves as outside litigation counsel, and that her expertise and special knowledge is essential to the proper presentation of the case on behalf of the PCT.

4. I am an active member of the bar of this Court and an associate with the firm Kobayashi, Sugita & Goda, and will remain as local defense counsel, with the authority and responsibility to act as attorney of record for all purposes for Defendants in this matter and will continue to meaningfully participate in the preparation and trial of this case.

5. Erin N. Brady shall comply with the rules of the Local Rules of the United States District Court for the District of Hawaii, the Hawai'i State Bar Association's Guidelines of Professional Courtesy and Civility, and shall pay the required assessment to the Clerk of the Court.

I declare under penalty of perjury that the foregoing is true and correct.

DATED: Honolulu, Hawaii, February 9, 2007.



LEX R. SMITH